

1
2
3
4
5
6
7
8
9
10
11
12

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAMES PATRICK BURNS,

Defendant.

3:21-CR-046-MMD-CSD

Preliminary Order of Forfeiture

13 This Court finds James Patrick Burns was found guilty of Counts 1-21 of a 21-Count
14 Fourth Superseding Criminal Indictment charging him in Counts 1-8 with sexual
15 exploitation of children in violation of 18 U.S.C. § 2251(a); in Count 9 with advertising
16 child pornography in violation of 18 U.S.C. § 2251(d)(1)(A); in Counts 10-17 with coercion
17 and enticement of a minor in violation of 18 U.S.C. § 2422(b); in Count 18 with distribution
18 of child pornography in violation of 18 U.S.C. § 2252A(a)(2); in Count 19 with receipt of
19 child pornography in violation of 18 U.S.C. § 2252A(a)(2); in Count 20 with possession of
20 child pornography in violation of 18 U.S.C. § 2252A(a)(5)(B); and in Count 21 with
21 commission of a specified felony sex offense by an individual required to register as a sex
22 offender in violation of 18 U.S.C. § 2260A. Fourth Superseding Criminal Indictment, ECF
23 No. 136; Minutes of Jury Trial, ECF No. 251; Jury Verdict, ECF Nos. 252, 262.

24 This Court finds James Patrick Burns agreed to the forfeiture of the property set forth
25 in the Stipulation for Entry of Order of Forfeiture as to James Patrick Burns and Order and
26 the Forfeiture Allegations of the Fourth Superseding Criminal Indictment. Fourth
27 Superseding Criminal Indictment, ECF No. 136; Minutes of Jury Trial, ECF No. 251; Jury
28 Verdict, ECF Nos. 252, 262; Order Granting Stipulation, ECF No. 263.

1 This Court finds, under Fed. R. Crim. P. 32.2(b)(1) and (b)(2), the United States of
 2 America has shown the requisite nexus between property set forth in the Forfeiture
 3 Allegations of the Fourth Superseding Criminal Indictment and Counts 1-20, of which
 4 James Patrick Burns was found guilty.

5 The following property is (1) any visual depiction described in 18 U.S.C. §§ 2251 and
 6 2252A, or any book, magazine, periodical, film, videotape, or other matter which contains
 7 any such visual depiction, which was produced, transported, mailed, shipped or received in
 8 violation of 18 U.S.C. §§ 2251(a), 2251(d)(1)(A), 2252A(a)(2), and 2252A(a)(5)(B); (2) any
 9 property, real or personal, used or intended to be used to commit or to promote the
 10 commission of 18 U.S.C. §§ 2251(a), 2251(d)(1)(A), 2252A(a)(2), and 2252A(a)(5)(B) or any
 11 property traceable to such property; (3) any property, real or personal, that was used or
 12 intended to be used to commit or to facilitate the commission of a violation of 18 U.S.C. §
 13 2422(b); or (4) any property, real or personal, used or intended to be used to commit or to
 14 facilitate the commission of a violation of 18 U.S.C. § 2422(b) and is subject to forfeiture
 15 under 18 U.S.C. §§ 2253(a)(1), 2253(a)(3), and 2428(a)(1) and 18 U.S.C. § 2428(b)(1)(A)
 16 with 28 U.S.C. § 2461(c):

- 17 1. a Toshiba Satellite C55-B5100 laptop computer, serial number
 18 ZE257693P;
 - 19 2. an Asus Essentio computer, serial number DCPDCG0018P5;
 - 20 3. a PNY 128GB USB, serial number E094-B20F;
 - 21 4. a SanDisk USB, serial number 1DFA-E539;
 - 22 5. an SP Micro SDHC 4GB, serial number D216-BD58;
 - 23 6. a SanDisk SD 2GB, serial number G4A5-F009; and
 - 24 7. a SanDisk Extreme Pro 64GB, serial number 3039-3034
- 25 (all of which constitutes property).

26 This Court finds that on the government's motion, the Court may at any time enter
 27 an order of forfeiture or amend an existing order of forfeiture to include subsequently
 28 located property or substitute property under Fed. R. Crim. P. 32.2(e) and 32.2(b)(2)(C).

1 This Court finds the United States of America is now entitled to, and should, reduce
2 the aforementioned property to the possession of the United States of America.

3 NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND
4 DECREED that the United States of America should seize the aforementioned property.

5 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED all possessory
6 rights, ownership rights, and all rights, titles, and interests of James Patrick Burns in the
7 aforementioned property are forfeited and are vested in the United States of America and
8 shall be safely held by the United States of America until further order of the Court.

9 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED the United States
10 of America shall publish for at least thirty (30) consecutive days on the official internet
11 government forfeiture website, www.forfeiture.gov, notice of this Order, which shall
12 describe the forfeited property, state the times under the applicable statute when a petition
13 contesting the forfeiture must be filed, and state the name and contact information for the
14 government attorney to be served with the petition, under Fed. R. Crim. P. 32.2(b)(6).
15 Notice is served on any individual or entity on the date when it is placed in the mail,
16 delivered to a commercial carrier, or sent by electronic mail under Fed. R. Crim. P.
17 32.2(b)(6)(D) and Supplemental Rule G(4)(b)(iii)-(v).

18 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that any individual
19 or entity who claims an interest in the forfeited property must file a petition for a hearing to
20 adjudicate the validity of the petitioner's alleged interest in the property under 21 U.S.C. §
21 853(n)(2), which petition shall be signed by the petitioner under penalty of perjury under 21
22 U.S.C. § 853(n)(3) and 28 U.S.C. § 1746, and shall set forth the nature and extent of the
23 petitioner's right, title, or interest in the property, the time and circumstances of the
24 petitioner's acquisition of the right, title, or interest in the property, any additional facts
25 supporting the petitioner's claim, and the relief sought.

26 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED a petition, if any,
27 must be filed with the Clerk of the Court, Bruce R. Thompson U.S. Courthouse and Federal
28 Building, 400 South Virginia Street, 3rd Floor, Reno, Nevada 89501, within thirty (30) days

1 of the final publication of notice on the official internet government forfeiture site,
2 www.forfeiture.gov, or his receipt of written notice, whichever is earlier.

3 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED a copy of the
4 petition, if any, shall be served upon the Asset Forfeiture Attorney of the United States
5 Attorney's Office at the following address at the time of filing:

6 Daniel D. Hollingsworth
7 Assistant United States Attorney
8 Misty L. Dante
9 Assistant United States Attorney
501 Las Vegas Boulevard South, Suite 1100
Las Vegas, Nevada 89101.

10 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED the notice
11 described herein need not be published in the event a Declaration of Forfeiture is issued by
12 the appropriate agency following publication of notice of seizure and intent to
13 administratively forfeit the above-described property.

14 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Clerk send
15 copies of this Order to all counsel of record.

16 DATED March 19, 2024.

17
18 

19

MIRANDA M. DU
20 UNITED STATES DISTRICT JUDGE
21
22
23
24
25
26
27
28